

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2229**

---

**Introduced by Assembly Member Grove**

February 18, 2016

---

An act to amend ~~Section 27500~~ Sections 26805, 26815, 27540, and 28220 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2229, as amended, Grove. Firearms.

*Existing law generally regulates the sale and transfer of firearms, including, among other requirements and subject to exceptions, that the transfer of a firearm be conducted through a firearms dealer. Existing law, subject to exceptions, imposes a 10-day waiting period for delivery of a firearm, during which time a background check is conducted by the Department of Justice to determine if the proposed recipient of the firearm is prohibited from owning or possessing a firearm.*

*This bill would require a firearms dealer to immediately release a firearm to a recipient who is not prohibited from possessing, receiving, owning, or purchasing a firearm if the person is authorized to carry a concealed firearm, possesses a valid Certificate of Eligibility, or owns a firearm registered with the department, as specified. The bill would make additional conforming changes.*

~~Existing law prohibits specified persons from owning, purchasing, receiving, or having in their possession any firearm. Existing law prohibits selling, supplying, delivering, or giving possession or control of a firearm to those persons.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 26805 of the Penal Code is amended to*  
2     *read:*

3     26805. (a) Except as provided in subdivisions (b) and (c), the  
4     business of a licensee shall be conducted only in the buildings  
5     designated in the license.

6     (b) (1) A person licensed pursuant to Sections 26700 and 26705  
7     may take possession of firearms and commence preparation of  
8     registers for the sale, delivery, or transfer of firearms at any gun  
9     show or event, as defined in Section 478.100 of Title 27 of the  
10    Code of Federal Regulations, or its successor, if the gun show or  
11    event is not conducted from any motorized or towed vehicle. A  
12    person conducting business pursuant to this subdivision shall be  
13    entitled to conduct business as authorized herein at any gun show  
14    or event in the state, without regard to the jurisdiction within this  
15    state that issued the license pursuant to Sections 26700 and 26705,  
16    provided the person complies with all applicable laws, including,  
17    but not limited to, the waiting period specified in ~~subdivision (a)~~  
18    of Section 26815, and all applicable local laws, regulations, and  
19    fees, if any.

20    (2) A person conducting business pursuant to this subdivision  
21    shall publicly display the person's license issued pursuant to  
22    Sections 26700 and 26705, or a facsimile thereof, at any gun show  
23    or event, as specified in this subdivision.

24    (c) (1) A person licensed pursuant to Sections 26700 and 26705  
25    may engage in the sale and transfer of firearms other than  
26    handguns, at events specified in Sections 26955, 27655, 27900,  
27    and 27905, subject to the prohibitions and restrictions contained  
28    in those sections.

29    (2) A person licensed pursuant to Sections 26700 and 26705  
30    may also accept delivery of firearms other than handguns, outside  
31    the building designated in the license, provided the firearm is being  
32    donated for the purpose of sale or transfer at an auction or similar  
33    event specified in Section 27900.

(d) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

(1) The building designated in the license.

(2) The places specified in subdivision (b) or (c).

(3) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

*SEC. 2. Section 26815 of the Penal Code is amended to read:*

26815. ~~No~~(a) A firearm shall *not* be delivered:

~~(a)~~

(1) Within 10 days of the application to purchase, or, after notice by the department pursuant to Section 28220, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to Section 28225, whichever is later.

~~(b)~~

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

~~(c)~~

(3) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of the person's identity and age to the dealer.

~~(d)~~

(4) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from processing, owning, purchasing, or receiving a firearm. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

*(b) Notwithstanding paragraph (1) of subdivision (a), if the department determines, pursuant to Section 28220, that the person is not prohibited from possessing, receiving, owning, or purchasing a firearm and if the sale, delivery, loan, or transfer of the firearm is to a person who satisfies one of the following conditions, the dealer shall immediately release the firearm to the person:*

*(1) The person holds a valid license to carry a concealed firearm issued pursuant to Section 26150 or 26155.*

1 (2) *The person holds a valid certificate of eligibility from the*  
2 *Department of Justice issued pursuant to Section 26710.*

3 (3) *The person has a firearm registered to him or her in the*  
4 *Automated Firearms System or other Department of Justice*  
5 *database.*

6 SEC. 3. *Section 27540 of the Penal Code is amended to read:*  
7 27540. (a) A dealer, whether or not acting pursuant to Chapter  
8 5 (commencing with Section 28050), shall not deliver a firearm  
9 to a person, as follows:

10 ~~(a)~~  
11 (1) Within 10 days of the application to purchase, or, after notice  
12 by the department pursuant to Section 28220, within 10 days of  
13 the submission to the department of any correction to the  
14 application, or within 10 days of the submission to the department  
15 of any fee required pursuant to Section 28225, whichever is later.

16 ~~(b)~~  
17 (2) Unless unloaded and securely wrapped or unloaded and in  
18 a locked container.

19 ~~(c)~~  
20 (3) Unless the purchaser, transferee, or person being loaned the  
21 firearm presents clear evidence of the person's identity and age to  
22 the dealer.

23 ~~(d)~~  
24 (4) Whenever the dealer is notified by the Department of Justice  
25 that the person is prohibited by state or federal law from possessing,  
26 receiving, owning, or purchasing a firearm.

27 ~~(e)~~  
28 (5) A handgun shall not be delivered unless the purchaser,  
29 transferee, or person being loaned the handgun presents a handgun  
30 safety certificate. Commencing January 1, 2015, any firearm,  
31 including a handgun, shall not be delivered unless the purchaser,  
32 transferee, or person being loaned the firearm presents a firearm  
33 safety certificate to the dealer, except that in the case of a handgun,  
34 an unexpired handgun safety certificate may be presented.

35 ~~(f)~~  
36 (6) A handgun shall not be delivered whenever the dealer is  
37 notified by the Department of Justice that within the preceding  
38 30-day period the purchaser has made another application to  
39 purchase a handgun and that the previous application to purchase

1 ~~involved none~~ *did not involve any of the entities or circumstances*  
2 *specified in subdivision (b) of Section 27535.*

3 *(b) Notwithstanding paragraph (1) of subdivision (a), if the*  
4 *department determines, pursuant to Section 28220, that the person*  
5 *is not prohibited from possessing, receiving, owning, or purchasing*  
6 *a firearm, and if the sale, delivery, loan, or transfer of the firearm*  
7 *is to a person who satisfies one of the following conditions, the*  
8 *dealer shall immediately release the firearm to the person:*

9 *(1) The person holds a valid license to carry a concealed firearm*  
10 *issued pursuant to Section 26150 or 26155.*

11 *(2) The person holds a valid certificate of eligibility from the*  
12 *Department of Justice issued pursuant to Section 26710.*

13 *(3) The person has a firearm registered to him or her in the*  
14 *Automated Firearms System or other Department of Justice*  
15 *database.*

16 *SEC. 4. Section 28220 of the Penal Code is amended to read:*

17 *28220. (a) Upon submission of firearm purchaser information,*  
18 *the Department of Justice shall examine its records, as well as*  
19 *those records that it is authorized to request from the State*  
20 *Department of State Hospitals pursuant to Section 8104 of the*  
21 *Welfare and Institutions Code, in order to determine if the*  
22 *purchaser is a person described in subdivision (a) of Section 27535,*  
23 *or is prohibited by state or federal law from possessing, receiving,*  
24 *owning, or purchasing a firearm.*

25 *(b) To the extent that funding is available, the Department of*  
26 *Justice may participate in the National Instant Criminal Background*  
27 *Check System (NICS), as described in subsection (t) of Section*  
28 *922 of Title 18 of the United States Code, and, if that participation*  
29 *is implemented, shall notify the dealer and the chief of the police*  
30 *department of the city or city and county in which the sale was*  
31 *made, or if the sale was made in a district in which there is no*  
32 *municipal police department, the sheriff of the county in which*  
33 *the sale was made, that the purchaser is a person prohibited from*  
34 *acquiring a firearm under federal law.*

35 *(c) If the department determines that the purchaser is prohibited*  
36 *by state or federal law from possessing, receiving, owning, or*  
37 *purchasing a firearm or is a person described in subdivision (a) of*  
38 *Section 27535, it shall immediately notify the dealer and the chief*  
39 *of the police department of the city or city and county in which*  
40 *the sale was made, or if the sale was made in a district in which*

1 there is no municipal police department, the sheriff of the county  
2 in which the sale was made, of that fact.

3 *(d) If the department determines, pursuant to this section, that*  
4 *the person is not a person described in subdivision (a) of Section*  
5 *27535 and is not prohibited from possessing, receiving, owning,*  
6 *or purchasing a firearm, and if the sale, delivery, loan, or transfer*  
7 *of the firearm is to a person who satisfies one of the following*  
8 *conditions, the dealer shall immediately release the firearm to the*  
9 *person:*

10 *(1) The person holds a valid license to carry a concealed firearm*  
11 *issued pursuant to Section 26150 or 26155.*

12 *(2) The person holds a valid certificate of eligibility from the*  
13 *Department of Justice issued pursuant to Section 26710.*

14 *(3) The person has a firearm registered to him or her in the*  
15 *Automated Firearms System or other Department of Justice*  
16 *database.*

17 ~~(d)~~

18 *(e) If the department determines that the copies of the register*  
19 *submitted to it pursuant to subdivision (d) of Section 28210 contain*  
20 *any blank spaces or inaccurate, illegible, or incomplete information,*  
21 *preventing identification of the purchaser or the handgun or other*  
22 *firearm to be purchased, or if any fee required pursuant to Section*  
23 *28225 is not submitted by the dealer in conjunction with*  
24 *submission of copies of the register, the department may notify*  
25 *the dealer of that fact. Upon notification by the department, the*  
26 *dealer shall submit corrected copies of the register to the*  
27 *department, or shall submit any fee required pursuant to Section*  
28 *28225, or both, as appropriate and, if notification by the department*  
29 *is received by the dealer at any time prior to delivery of the firearm*  
30 *to be purchased, the dealer shall withhold delivery until the*  
31 *conclusion of the waiting period described in Sections 26815 and*  
32 *27540.*

33 ~~(e)~~

34 *(f) If the department determines that the information transmitted*  
35 *to it pursuant to Section 28215 contains inaccurate or incomplete*  
36 *information preventing identification of the purchaser or the*  
37 *handgun or other firearm to be purchased, or if the fee required*  
38 *pursuant to Section 28225 is not transmitted by the dealer in*  
39 *conjunction with transmission of the electronic or telephonic*  
40 *record, the department may notify the dealer of that fact. Upon*

1 notification by the department, the dealer shall transmit corrections  
2 to the record of electronic or telephonic transfer to the department,  
3 or shall transmit any fee required pursuant to Section 28225, or  
4 both, as appropriate, and if notification by the department is  
5 received by the dealer at any time prior to delivery of the firearm  
6 to be purchased, the dealer shall withhold delivery until the  
7 conclusion of the waiting period described in Sections 26815 and  
8 27540.

9 ~~(f)~~

10 (g) (1) (A) The department shall immediately notify the dealer  
11 to delay the transfer of the firearm to the purchaser if the records  
12 of the department, or the records available to the department in  
13 the National Instant Criminal Background Check System, indicate  
14 one of the following:

15 (i) The purchaser has been taken into custody and placed in a  
16 facility for mental health treatment or evaluation and may be a  
17 person described in Section 8100 or 8103 of the Welfare and  
18 Institutions Code and the department is unable to ascertain whether  
19 the purchaser is a person who is prohibited from possessing,  
20 receiving, owning, or purchasing a firearm, pursuant to Section  
21 8100 or 8103 of the Welfare and Institutions Code, prior to the  
22 conclusion of the waiting period described in Sections 26815 and  
23 27540.

24 (ii) The purchaser has been arrested for, or charged with, a crime  
25 that would make him or her, if convicted, a person who is  
26 prohibited by state or federal law from possessing, receiving,  
27 owning, or purchasing a firearm, and the department is unable to  
28 ascertain whether the purchaser was convicted of that offense prior  
29 to the conclusion of the waiting period described in Sections 26815  
30 and 27540.

31 (iii) The purchaser may be a person described in subdivision  
32 (a) of Section 27535, and the department is unable to ascertain  
33 whether the purchaser, in fact, is a person described in subdivision  
34 (a) of Section 27535, prior to the conclusion of the waiting period  
35 described in Sections 26815 and 27540.

36 (B) The dealer shall provide the purchaser with information  
37 about the manner in which he or she may contact the department  
38 regarding the delay described in subparagraph (A).

39 (2) The department shall notify the purchaser by mail regarding  
40 the delay and explain the process by which the purchaser may

1 obtain a copy of the criminal or mental health record the  
2 department has on file for the purchaser. Upon receipt of that  
3 criminal or mental health record, the purchaser shall report any  
4 inaccuracies or incompleteness to the department on an approved  
5 form.

6 (3) If the department ascertains the final disposition of the arrest  
7 or criminal charge, or the outcome of the mental health treatment  
8 or evaluation, or the purchaser's eligibility to purchase a firearm,  
9 as described in paragraph (1), after the waiting period described  
10 in Sections 26815 and 27540, but within 30 days of the dealer's  
11 original submission of the purchaser information to the department  
12 pursuant to this section, the department shall do the following:

13 (A) If the purchaser is not a person described in subdivision (a)  
14 of Section 27535, and is not prohibited by state or federal law,  
15 including, but not limited to, Section 8100 or 8103 of the Welfare  
16 and Institutions Code, from possessing, receiving, owning, or  
17 purchasing a firearm, the department shall immediately notify the  
18 dealer of that fact and the dealer may then immediately transfer  
19 the firearm to the purchaser, upon the dealer's recording on the  
20 register or record of electronic transfer the date that the firearm is  
21 transferred, the dealer signing the register or record of electronic  
22 transfer indicating delivery of the firearm to that purchaser, and  
23 the purchaser signing the register or record of electronic transfer  
24 acknowledging the receipt of the firearm on the date that the  
25 firearm is delivered to him or her.

26 (B) If the purchaser is a person described in subdivision (a) of  
27 Section 27535, or is prohibited by state or federal law, including,  
28 but not limited to, Section 8100 or 8103 of the Welfare and  
29 Institutions Code, from possessing, receiving, owning, or  
30 purchasing a firearm, the department shall immediately notify the  
31 dealer and the chief of the police department in the city or city and  
32 county in which the sale was made, or if the sale was made in a  
33 district in which there is no municipal police department, the sheriff  
34 of the county in which the sale was made, of that fact in compliance  
35 with subdivision (c) of Section 28220. (c).

36 (4) If the department is unable to ascertain the final disposition  
37 of the arrest or criminal charge, or the outcome of the mental health  
38 treatment or evaluation, or the purchaser's eligibility to purchase  
39 a firearm, as described in paragraph (1), within 30 days of the  
40 dealer's original submission of purchaser information to the



1 department pursuant to this section, the department shall  
2 immediately notify the dealer and the dealer may then immediately  
3 transfer the firearm to the purchaser, upon the dealer's recording  
4 on the register or record of electronic transfer the date that the  
5 firearm is transferred, the dealer signing the register or record of  
6 electronic transfer indicating delivery of the firearm to that  
7 purchaser, and the purchaser signing the register or record of  
8 electronic transfer acknowledging the receipt of the firearm on the  
9 date that the firearm is delivered to him or her.

10 SECTION 1. ~~Section 27500 of the Penal Code is amended to~~  
11 ~~read:~~

12 ~~27500. (a) A person, corporation, or firm shall not knowingly~~  
13 ~~sell, supply, deliver, or give possession or control of a firearm to~~  
14 ~~any person within any of the classes prohibited by Chapter 2~~  
15 ~~(commencing with Section 29800) or Chapter 3 (commencing with~~  
16 ~~Section 29900) of Division 9.~~

17 ~~(b) A person, corporation, or dealer shall not sell, supply,~~  
18 ~~deliver, or give possession or control of a firearm to anyone whom~~  
19 ~~the person, corporation, or dealer has cause to believe is within~~  
20 ~~any of the classes prohibited by Chapter 2 (commencing with~~  
21 ~~Section 29800) or Chapter 3 (commencing with Section 29900)~~  
22 ~~of Division 9 of this title, or Section 8100 or 8103 of the Welfare~~  
23 ~~and Institutions Code.~~